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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,041	12/22/1999	WILLIAM NG	AND1P397	5695

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OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)  
PLAZA VII, SUITE 3300  
45 SOUTH SEVENTH STREET  
MINNEAPOLIS, MN 55402-1609

EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

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Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

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21

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## Commissioner for Patents

The timely amendment filed on 11/3/03 is not fully responsive to the prior Office action because applicant has canceled all claims directed to the elected invention and claims have been improperly introduced.

Per CFR 1.126, It is improper to just reinstate formerly canceled claims. The amendment, filed 8/25/03, was entered. The amendment, filed 11/3/03, has been entered except for the reinstated claims. The current status of the claims is: claims 1-18 canceled per 8/25/03, claim 19 amended per 11/3/03, claims 20-21 canceled, claims 22-25 presented on 8/25/03 and unchanged on 11/3/03, claims 26-34 canceled, claim 35 amended per 11/3/03, claims 36-37 canceled, claims 38-41 presented on 8/25/03 and unchanged on 11/3/03, and claims 42-50 canceled.

Applicant has asserted that claims 19 and 35 are linking claims and that claim 13 is directed towards the "constructively elected" invention. The examiner does not concur. The improperly reinstated claims and claims 19, 22-25, 35, and 38-41 are drawn to the processing of a sale in a virtual trade financial framework. Claims 1-18 are drawn to initiating bidding in a virtual trade financial framework.

Newly submitted claims 19, 22-25, 35 and 38-41 are directed to an invention that is independent or distinct from the invention originally claimed invention, claims 1-18. The inventions are distinct, each from the other because the inventions of sales processing (claims 19-50) and bidding structure (claims 1-18) are related as subcombinations disclosed as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the financial framework can process any sale. The subcombination has separate utility such as accepting bids in many different financial frameworks. Claim 19 is an evidence claim. See MPEP § 806.05(c). Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 19, 22-25, 35, and 38-41 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Note MPEP 819, "Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right)." Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action.

*Michael Cuff* 2/24/04  
MICHAEL CUFF  
FEDERAL BUREAU OF INVESTIGATION